

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  EXCEL TELECOMMUNICATIONS, INC.,  Respondent.	DOCKET NO. FCU-04-25
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**ORDER ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued July 26, 2004)

On May 24, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty against Excel Telecommunications, Inc. (Excel), pursuant to Iowa Code §§ 476.3 and 476.103, for an alleged slamming violation. Excel did not respond to Consumer Advocate's petition.

On June 29, 2004, the Board issued an order docketing Consumer Advocate's petition for formal proceeding, identified as Docket No. FCU-04-25, and directing Excel to respond to the allegations raised in Consumer Advocate's petition on or before July 23, 2004.

Excel filed a response to Consumer Advocate's petition on July 22, 2004, stating that it believes it has done what is required by the Board's rules by using a third-party verification of the customer's authorization of the switch in long distance service. Excel notes that it provided the Board with the third-party verification recording used as the basis for the change in long distance service at issue in this matter. Excel also notes that because it does not have the ability to authenticate voice recognition during the third-party verification process, it is impossible for it to determine that a change in service for a telephone number is being authorized by someone other than the authorized decision-maker.

In its June 29, 2004, order, the Board determined that there is sufficient information to warrant further investigation into this matter. Because Excel has now responded to Consumer Advocate's petition and denies violating Iowa's anti-slamming law, the Board will assign this matter to an administrative law judge (ALJ) for further proceedings pursuant to Iowa Code § 17A.11(1)"b" (2003) and 199 IAC 7.1(4). The ALJ will, among other things, set a hearing date, preside at the hearing, and issue a proposed decision.

**IT IS THEREFORE ORDERED:**

Pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.1(4), this docket is assigned to the Board's administrative law judge, Amy Christensen, to conduct a

hearing and issue a proposed decision. The administrative law judge shall have the authority provided under 199 IAC 7.1(4)"a" through "j."

**UTILITIES BOARD**

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/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 26<sup>th</sup> day of July, 2004.